

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

In The Matter Of:

CENTURY MORTGAGE, INC., RONALD
BURGER, DESIGNATED BROKER AND
OWNER, DALE SAGE GIBBONS,
OWNER, DWAIN R. KLEIN, OWNER,
GENE ARTHUR TAYLOR, MICHAEL
DEASY, CURTIS ORVIK, JON WEBB,
SCOTT TOLLEFSON, DAVID BURGER,
AND MARK HODGE,

Respondents.

NO. C-02-285-04-CO011

OAH Case No. 2002-DFI-0006

CONSENT ORDER
BETWEEN THE DEPARTMENT AND
SCOTT TOLLEFSON

COMES NOW the Acting Director, Division of Consumer Services, Department of Financial Institutions, (Acting Director), Chuck Cross and Scott Tollefson (hereinafter referred to as "Respondent Tollefson"), by and through his attorney, John R. Zeimantz, and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 19.146 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent Tollefson have agreed upon a basis for resolution of the matters alleged in Statement of Charges and Notice of Intention to Enter an Order To Revoke License, Prohibit from Participation in Industry and Assess Monetary Penalties ("Statement of Charges") No. C-02-285-02-SC04 issued August 26, 2002 (copy attached hereto). Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent Tollefson, hereby agrees to the Department's entry of this Consent Order and further agrees that the

issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges as it relates to Respondent Tollefson and agree that Respondent Tollefson does not admit any wrongdoing by its entry. Respondent Tollefson is agreeing not to contest said Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

B. **Consent to Be Bound By Order.** It is AGREED that the parties shall be bound by the terms and conditions of this Consent Order as set forth herein.

C. **Waiver of Hearing.** It is AGREED that Respondent Tollefson has been informed of his right to a hearing before an administrative law judge, and that he has waived same right to a hearing and any and all administrative and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly, Respondent Tollefson agrees to dismiss his appeal and to inform the Office of Administrative Hearings in writing of his dismissal.

D. **Non-Compliance with Order.** It is AGREED that Respondent Tollefson understands that failure to abide by the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of such legal action, Respondent Tollefson may be responsible to reimburse the Director for the cost incurred in pursuing such action, including but not limited to, attorney fees.

E. **Suspended (stayed) Prohibition from Industry.** It is AGREED that Respondent Tollefson is subject to a suspended (stayed) eight (8) year prohibition from participating in the mortgage broker industry in any capacity, including but not limited to: (1) any financial capacity

whether active or passive or (2) as an officer, director, principal, employee, or loan originator. The eight (8) year prohibition shall be suspended (stayed) for a period of three (3) years from the date of entry of this Consent Order. If upon expiration of said three (3) year period, the stay has not been previously lifted, and the eight (8) year prohibition has not been previously imposed, and if a notification to lift stay or proceeding to lift stay is not then pending by the Director to impose the eight (8) year prohibition, then, in such events, this Consent Order shall be considered fully performed by Respondent Tollefson and completed. If on the expiration of three (3) years from the date of entry of this Consent Order a notification to lift stay or proceeding to lift stay is pending by the Director to impose the eight (8) year prohibition, then those proceedings shall continue according to the terms of this Consent Order. Nothing in this provision changes the obligations of Respondent Tollefson under paragraph F to address any issues identified by the Department in the compliance examinations to the satisfaction of the Department.

F. **Compliance Examinations.** It is AGREED that Respondent Tollefson is subject to compliance examinations during the three (3) year period of suspended (stayed) prohibition to be conducted by the Department at the Department's discretion (not to exceed one compliance examination per calendar year), at Respondent Tollefson's expense (not to exceed \$500.00 per compliance examination). Respondent Tollefson further AGREES to promptly respond and address any and all issues, if any, identified in the compliance examinations to the satisfaction of the Department. If the issues identified by the Department in any compliance examination result in the Department seeking to lift the stay and impose the eight (8) year prohibition, Respondent Tollefson AGREES to be responsible for the examination costs of the Department in excess of \$500.00.

G. Lifting of Stay and Imposing Prohibition. It is AGREED that:

1. If the Department determines that Respondent Tollefson is in violation of RCW 19.146.0201(1), (2), (3), or (6), RCW 19.146.030, or any of the terms and conditions of this Consent Order and the Department accordingly seeks to lift the stay and impose the eight (8) year prohibition, the Department first will notify Respondent Tollefson in writing of its determination.
2. Respondent Tollefson will be afforded 10 business days from the date of receipt of the Department's notification to request in writing an administrative hearing to be held before an Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH).
3. Respondent Tollefson's request for hearing must be sent to the Department and received by the Department within 10 business days of the date of the receipt of the Department's notice.
4. Respondent Tollefson, in addition to his request for hearing, may provide a written response to include any information pertaining to the alleged noncompliance.
5. The administrative hearing shall be expedited and follow the timing and processes described in this Consent Order.
6. If Respondent Tollefson does not request the hearing within the stated time, the Department immediately will impose the eight (8) year prohibition and pursue whatever action it deems necessary to impose the prohibition.
7. If requested, the hearing will be held within fifteen (15) business days (or as soon as the schedule of the ALJ permits) from the due date for Respondent Tollefson's request for hearing or from the date of receipt of Respondent Tollefson's timely request for hearing, whichever is sooner. The parties will accommodate the prompt scheduling of the hearing.
8. The scope and issues of the hearing are limited solely to whether or not Respondent Tollefson is in violation of RCW 19.146.0201(1), (2), (3), or (6), RCW 19.146.030, or any of the terms and conditions of this Consent Order.
9. At the conclusion of the hearing, the ALJ will issue an initial decision. Either party may file a Petition for Review with the Director of the Department.
10. The Department's notification will include:
 - a) A description of the alleged noncompliance;

- b) A statement that because of the noncompliance, the Department seeks to lift the stay and impose the eight (8) year prohibition;
- c) The opportunity for Respondent Tollefson to contest the Department's determination of noncompliance in an administrative hearing before an ALJ of OAH; and
- d) A copy of this Consent Order. The notification and hearing process provided in this Consent Order applies only to this Consent Order. It is solely provided in the event Respondent Tollefson chooses to contest the Department's determination of noncompliance.

H. **Fine.** It is AGREED that Respondent Tollefson immediately pay a fine in the amount of \$5,000.00 to the Department in the form of a cashier's check made payable to the "Washington State Treasurer." By paying the fine, Respondent Tollefson does not admit to any wrongdoing or any allegations contained in the Statement of Charges.

I. **Notification of Current Address and Telephone Number.** It is AGREED that Respondent Tollefson keep the Department apprised in writing of his current address and telephone number.

J. **Authority of Department.** It is AGREED that nothing in this Consent Order shall be construed as preventing the Department from fully exercising its authority and enforcing any provision of Title 19 Revised Code of Washington and Title 208 of the Washington Administrative Code.

K. **Authority to Execute Order.** It is AGREED that the undersigned has represented and warranted that he has the full power and right to execute this Consent Order on behalf of the party represented.

L. **Voluntarily Entered.** It is AGREED that the undersigned Respondent Tollefson has voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

M. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent Tollefson has read this Consent Order in its entirety and fully understands and agrees to all of the same.

/s/
SCOTT TOLLEFSON

02/27/2004
DATE

/s/
JOHN R. ZEIMANTZ
Attorney at Law
Attorney for Respondent Tollefson

03/05/2004
DATE

IT IS SO ORDERED.

Dated and Entered this 9th day of March, 2004.

/s/
CHUCK CROSS, Acting Director
Division of Consumer Services
Department of Financial Institutions